

REMARKS

Claims 1-5 continue to be rejected as unpatentable under 35 USC §103 over Takashi et al. (JP 405049097 English language abstract) in view Barham as indicated at the bottom of page 3 and at page 4 of the final rejection. This statement of the rejection is identical to the statement of the rejection in the first Office Action of November 19, 2003 at pages 3 and 4.

The Examiner continues to maintain that the language “having a length which is adapted to the excitation frequency of the pistonphone” is not a positive limitation in a patentable sense again citing *In re Hutchinson*, 69 USPQ 138. The Examiner also continues to maintain that this reference is appropriate as the issue is not the fact that the phrase “adapted to” was in the preamble but that the phrase itself “adapted to” does not constitute a limitation in any patentable sense.

Applicants respectfully submit that the headnotes of *Hutchinson* indicate a statement in the introductory clause concerning “adapted” is not a limitation is clearly incorrect because it is part of the introductory phrase. This is completely consistent with the reading of the decision.

However, Applicants expressly wish to indicate that the MPEP, at Section 2173.05(g) calls attention to *In re Venezia*, 189 USPQ 149 (CCPA 1976) for an indication that limitations such as “members adapted to be positioned” serve to precisely define structural attributes of interrelated component parts.

Furthermore *In re Venezia*, in the opinion and in the headnote specifically, indicates that claim language which calls for sleeves “adapted to be fitted” over insulating jacket imparts structural limitations to sleeve.

Therefore in light of the directive in the MPEP and the *In re Venezia* case, Applicants submit that this application is in condition for allowance as the language of claim 1 and claim 4 contain a requirement that the length is adapted to the excitation frequency of the pistonphone which may not be ignored as it is a structural limitation, and which is not available from the references of record.

Additionally, Applicants reiterate that independent claims 1 and 4 recite a high pressure adapter connected to the output of the pistonphone volume and limits the adapter to a tube formed as a $\lambda/4$ resonator. The reference to Takashi has a microphone mount 12 whereby the microphone is mounted to the casing in order to face the pressure chamber with the airtight member 15. Thus Takashi has a teaching of directly connecting the microphone to be calibrated to the volume of the pressure chamber (pistonphone volume). Therefore Applicants once again submit that Takashi does not have a high pressure adapter begin connected to an output of the pistonphone volume which includes a tube formed as a $\lambda/4$ resonator which is adapted to the excitation frequency pistonphone to amplify the sound pressure. Still further, Takashi does not disclose that the amplifier adapter has an expanded opening for a sound proof connection to the microphone to be calibrated. Additionally, Takashi is not a high pressure

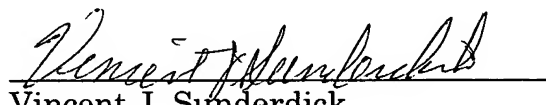
adapter as indicated in the rejection because the chamber 3 is that portion which is required to form the pistonphone so it cannot be both pistonphone volume and the adapter connected to the pistonphone. The pistonphone is claimed in Applicants' invention as having a piston with an adjustable volume and separately the high pressure adapter is claimed as being connected to the output of the volume. The secondary reference to Barham even accepting the statement of the rejection for its showing adds nothing toward the meeting the claimed limitations of independent claims 1 and 4 which features are not shown by Takashi, as discussed above.

Therefore, once again Applicants respectfully urge that this application be allowed and passed to issue.

If there are any questions regarding this amendment or the application in general, a telephone call to the undersigned would be appreciated since this should expedite the prosecution of the application for all concerned.

If necessary to effect a timely response, this paper should be considered as a petition for an Extension of Time sufficient to effect a timely response, and please charge any deficiency in fees or credit any overpayments to Deposit Account No. 05-1323 (Docket #056226.50943).

Respectfully submitted,


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